

ANDOVER BOARD OF HEALTH
Minutes
November 18, 2013, 6:00 P.M.
CD&P First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:05 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Katherine Kellman, Vice-Chairman, and Mr. Thomas G. Carbone, Director of Public Health. Dr. Gopala K. Dwarakanath, Clerk, was not present due to a scheduling conflict.

I. Approval of Minutes

- **October 21, 2013**

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Minutes of October 21, 2013 with the following corrections:

- *On page 2, under • 6:10 p.m. – Consumer Solutions REO, LLC for 5 Oak Street - Show Cause Hearing to Repair a Failed Septic System - second sentence, after “The system failed in 2001”, end sentence there and delete “and the property changed ownership in 2005”.*
- *On page 2, under • 6:15 p.m. – Chinmaya Mission, 1 Union Street – Request for Variance to Grease Trap Requirements – third sentence from bottom, “new owner” is written twice, so delete one.*

Unanimous approval.

- **October 31, 2013**

Motion by Martin, seconded by Ms. Kellman, to approve the Minutes of October 31, 2013. Unanimous approval.

II. Appointments & Hearings

- **6:00 p.m. – John Grasso for 55 Harold Parker Road – Condemnation Hearing due to Failed Septic System (Continued)** – Mr. Carbone informed the Board that Mr. Grasso has completed the upgrade to his Septic System, and all the required paperwork has been received. He recommended that the Board close the Condemnation Hearing.

Motion by Ms. Martin , seconded by Ms. Kellman, to close the Condemnation Hearing due to a failed Septic System at 55 Harold Parker Road taking no further action. Unanimous approval.

- **6:01 p.m. –Attorney James Creed for 5 Oak Street – Show Cause Hearing to Repair a Failed Septic System (Continued)** – Mr. Carbone explained to the Board

that Atty. Creed is still dealing with the Housing Court in an attempt to get the occupant evicted and was due back in court last Thursday. The expectation was that even if he had a favorable Hearing they would not be at a point where the tenant would have vacated the home.

Motion by Ms. Martin, seconded by Ms. Kellman, to continue the Show Cause Hearing to repair a failed Septic System at 5 Oak Street until the regularly scheduled Board of Health Meeting on December 16, 2013. Unanimous approval.

- **6:10 p.m. – Eva Xu for Teatone Restaurant, 17 Railroad Street – Show Cause Hearing to Revoke or Suspend a Food Establishment License** –Eva Xu was present. Mr. Carbone informed that Board that Ms. Xu has sold the restaurant and a Food Establishment License was issued to the new owners this morning. Ms. Xu stated that she was very pleased with the new owners and thanked the Board for all its help. Mr. Carbone recommended closing the Hearing with no further action.

Motion by Ms. Martin, seconded by Ms. Kellman, to close the Show Cause Hearing to revoke or suspend the Food Establishment License for Teatone Restaurant. Unanimous approval.

- **6:20 p.m. – Sun B. Son for Boston King Café – Discussion for Food Service Establishment License Reinstatement (Continued)** – Present were Mr. Sun Son, owner, Mr. Rory Linn, employee, and newly hired Chef George Zaharopoulos. Mr. Carbone stated that he received updated documents after the Wednesday deadline, but that he sent them along to the Board Members via e-mail. Ms. Martin stated that she would go by the newest documents. Ms. Martin stressed that she needed reassurance that having the new Chef and another employee would make a big difference. Chef Zaharopoulos stated that he worked at several restaurants, and his goal was to come to the restaurant, make sure they offer good fresh food, keep the restaurant clean, and bring customers into a nice environment. He plans to change the menu a bit as well. Ms. Martin still had concerns about who would be in charge if Chef Zaharopoulos was unable to come to work. Mr. Son hoped to hire a trained ServeSafe Certified line cook, but if one is not employed and Chef Zaharopoulos is out, Mr. Linn would do the cooking.

The Board had a lot of concerns because it felt that the same things Mr. Son told the Board about cleaning, and checklists and responsibilities were the same things it has been told over the past couple of years. The Board Members wanted to know how they could trust that things would be different this time. Ms. Martin was concerned that in the past there were checklists to be followed, cleaning schedules, training by Ms. Michelle Cramm, a Private Consultant, and multiple inspections telling Mr. Son what needed to be done, but nothing changed. Mr. Linn explained how he created the checklists and the Operations Guide, and broke down the cleaning of the restaurant into four sections. Each section will be assigned to a specific person. Ms. Martin asked what would happen if the checklists were not filled out. Mr. Linn explained that they would be keeping a close eye on the staff to make sure things are filled out, and if a staff member was not filling them out, that person would be let go. He also stated

that the former Chef, who was supposed to be in charge, wouldn't listen when told how things should be done. Ms. Martin was unhappy that Mr. Son and Mr. Linn seemed to always blame someone else instead of taking responsibility. Mr. Linn replied that he now has more knowledge after taking the ServeSafe Certification class, and that Ms. Cramm worked with him and the staff on sections of the test that anyone scored low in.

Leadership issues were also a great concern to the Board Members. Mr. Linn explained that Mr. Son was the Person in Charge (PIC) before, but now Chef Zaharopoulos would be the PIC, with Mr. Son next, then Mr. Linn. With his extensive experience and knowledge of food safety as well as cleanliness, Mr. Son felt that would make the difference. The staff will continue to work with Ms. Cramm for as long as needed. Mr. Linn stated that any new staff would be trained by him before they start working. Now that there are strict policies, new checklists, and an Operations Manual to be followed, Mr. Son felt that the staff would be better prepared to work in a manner satisfactory to the Board's requirements. Mr. Son stated that he really wanted to make this work and was very serious about making the changes that are needed to make his restaurant a success.

The Board closed the Hearing in order to have a discussion amongst the Members.

Discussion: Ms. Martin stated that she would like to make sure that if the Board decided to let the restaurant reopen, the Board could adequately monitor and inspect the reports from the Consultant quickly to make sure the restaurant is staying clean and the Food Code is being followed. Mr. Carbone suggested that the Board require Ms. Cramm's Inspection Report to be submitted to the Health Division within 24 hours of the inspection and that inspections should be done on a monthly basis. That way Health Staff can see the report immediately and see if any changes were made. Health Staff also could inspect the restaurant quarterly instead of twice a year. If the Board decides to reopen the restaurant, Mr. Carbone would do an inspection before allowing them to reopen. The Board decided to give Mr. Son another chance, but stated that if any issues arise again, the restaurant would be closed.

Mr. Carbone also brought to the Board's attention that the Common Victualler License has not been renewed as well.

Motion by Ms. Martin, seconded by Ms. Kellman, to rescind the suspension of Boston King Café's Food Service Establishment License with the following conditions:

- A. The dipper well shall be installed by a licensed plumber or hard ice cream shall not be served.*
- B. The Common Victualler License from the Board of Selectmen must be reissued prior to the reinstatement of the Food Service Permit.*
- C. Private inspections will be done every two weeks for three months and then monthly thereafter. Those inspection reports shall be submitted to the Board of Health within 24 hours of being conducted.*

- D. *The Corrective Action Plan presented to the Board shall be followed; failure to follow staff coverage and training guidelines, and completion of checklists in accordance with the plan presented could result in a Suspension, Revocation, or otherwise limit the establishment's operating permit.*
- E. *Compliance with this plan is required as a condition of your annual license; any change in personnel must be documented with your license renewal application.*

Vote taken: Ms. Martin, Aye, Ms. Kellman, Aye. Unanimous approval.

Mr. Carbone stated that he would call Mr. Son on Tuesday and set up an appointment for an inspection before the restaurant can reopen.

- **6:30 p.m. – LUA Hearing for 178 Jenkins Road to Allow a Leaching Facility to be 2' from a Property Line, 10' Required. See Below for Further LUA's** – Mr. Carbone informed the Board that this is an existing dwelling beyond Camp Evergreen on the North Reading Town line and the existing system is 10' off the end of the bank to the wetland. This is a tiny parcel that is constrained by wetlands on the property and across the Street. The code allows us to grant a Waiver to the groundwater setback, well, or wetland. The neighbor's well is close by, so this plan improves the well distance issue. The plan proposes barriers to help with the grading to protect the foundation side against infiltration. Mr. Carbone stated that he felt this was the best setup for the septic system considering the small size of the lot.

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the LUA's to: allow a Leaching Facility to be 2' from a property line where 10' is required; allow the septic tank to be 6' from the foundation, where 10' is required; allow the pump chamber to be 6' from a foundation, where 10' is required; allow the SAS to be 4' above SHWT, where 5' is required; allow the SAS to be 6' from the front property line, where 10' is required; allow the SAS to be 5' to foundation, where 20' is required. Unanimous approval.

III. Discussion

- **Set 2014 Board of Health Schedule** – Mr. Carbone suggested the following dates for the first six months Board of Health Meetings in 2014: Monday, January 13, 2014, Monday February 10, 2014, Monday March 10, 2014, Monday April 14, 2014, Monday, May 12, 2014, and Monday, June 9, 2014.

Motion by Ms. Martin, seconded by Ms. Kellman, to schedule the above dates for the first six months of 2014. Unanimous approval.

- **Revision of Regional Mutual Aid Agreement** – Mr. Carbone explained to the Board that the Town entered into two Regional Mutual Aid Agreements; one with six surrounding communities who were part of our Public Health Coalition and a separate agreement with Wilmington and Tewksbury. The Public Health Coalition was reorganized and Wilmington joined because it worked more closely with these communities. Now there is a need to amend the original agreement to include

Wilmington, which will result in the agreement consisting of eight communities instead of seven.

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the revision of the Regional Mutual Aid Agreement to include eight communities, and to provide Mr. Carbone with the authority to sign the new Mutual Aid Agreement on behalf of the Board of Health when all approvals are received. Unanimous approval.

IV. Old Business –

- **Update on 116 Osgood Street** – Mr. Carbone informed the Board that he was due back in court this Thursday for 116 Osgood Street and 27 Kirkland Drive. The Attorney General's office has been working on a proposal for 116 Osgood Street that Mr. Carbone thinks has some merit and that the Judge may approve. The Judge is concerned that Ms. Odle may lose her house on Osgood St. AAG Donnelly has received approval to use a special state fund to pay off the receiver's lien. The state will take the lien on the property and arrange to have a payment plan for her to pay back the money over a certain period of time and if she doesn't pay, it could foreclose on the property. Mr. Carbone informed the Board that Ms. Odle has had an injury and has not been able to work on cleaning any of the property at this time.
- **Update on Kirkland Drive** - Mr. Carbone informed the Board that little progress has occurred and he will be seeking permission to have the property cleaned.

V. Subdivision Definitive Plans - NA

VI. Plan Review

- **DWRP – Variances/Local Upgrade Approval**
 - **4 Hillcrest Road – LUA to Allow Septic Tank 5' from Property Line, 10' Required** – Mr. Carbone explained to the Board that this is an oddly shaped lot and the back of the property has a steep dropoff, so this is the best place where the designed system will work.

Motion by Ms. Martin, seconded by Ms. Kellman to approve the LUA to allow the Septic Tank to be 5' from the property line, where 10' is required. Unanimous approval.

- **13 Samos Lane – LUA's to Allow Leaching Facility (SAS) to be 7' from Property Line, 10' Required; Allow Leaching Facility to be 4' above Water Table, 5' Required (ratify)** – Mr. Carbone informed the Board that during the installation it was determined that the wetland boundary was closer to the system than originally depicted. Therefore, the system now requires the different LUA to allow the leaching facility (SAS) to be 7' from the property line, where 10' is required.

Motion by Ms. Martin, seconded by Ms. Kellman to ratify the LUA to allow the leaching facility (SAS) to be 7' from the property line, where 10' is required; and to allow the leaching facility to be 4' above the water table, where 5' is required. Unanimous approval.

- **178 Jenkins Road – LUA's to Allow the septic tank to be 6' from the foundation, where 10' is required; allow the pump chamber to be 6' from the foundation, where 10' is required; allow the SAS to be 4' above SHWT, where 5' is required; allow the SAS to be 6' from the front property line, where 10' is required; allow the SAS to be 2' to side property line where 10' is required; allow the SAS to be 5' to foundation, where 20' is required – See Motion made by the Board of Health above under Appointments and Hearing, 6:30 p.m.**

VII. Staff Reports

A. Director's Reports:

- **Important Dates:**

- December 13, 2013 at 10 a.m. – MDPH Commissioner speaks at Lowell General Hospital.
- December 16, 2013 at 6 p.m. – Board of Health Meeting

B. Nurses' Reports for October, 2013 – The Nurses' Reports for August and September, were for informational purposes only.

C. Inspectors' Reports for October, 2013 – The Inspectors' Reports for September, 2013 were for informational purposes only.

VIII. Board Member Reports

- N/A

IX. Adjournment

Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 7:35 p.m. Unanimous approval.